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In the Supreme Court of the United States

OCTOBER TERM, 1954.

No. 464

EARL L. STARY, *et al.*,
Appellants,

vs.

CITY OF BROOKLYN, et al.,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF OHIO.

MOTION TO DISMISS APPEAL
and
BRIEF IN SUPPORT OF MOTION.

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ON APPEAL FROM THE SUPREME COURT OF OHIO.

MOTION TO DISMISS APPEAL.

Now come the City of Brooklyn, *et al.*, appellees herein, by their attorney, Michael L. Hearns, and under Supreme Court Revised Rule 16, Section 1(b) move this Honorable Court to dismiss with costs the appeal taken to this Court by appellants for the following reasons:

1. No substantial Federal question is presented in this action.
2. The judgment rests on an adequate non-Federal basis.

The foregoing reasons are more fully set forth in the statement opposing jurisdiction included herein.

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Cleveland 14, Ohio,
Attorney for Appellees.

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In the Supreme Court of the United States

OCTOBER TERM, 1954.

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EARL L. STARY, *et al.*,
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CITY OF BROOKLYN, *et al.*,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF OHIO.

BRIEF IN SUPPORT OF MOTION.

STATEMENT OPPOSING JURISDICTION.

This action was originally brought in the Common Pleas Court of Cuyahoga County, Ohio, on November 2, 1951, and the relief sought by the appellants herein was for a declaratory judgment, injunction and relief, which was denied and judgment was entered for the appellees herein. The Trial Court, in ruling for the appellees on October 14, 1953 (R. 38-40), found that "An Ordinance Regulating Trailers and Trailer Camps was a valid exercise of the police power and not in conflict with any State law." The judgment of the Trial Court is set forth in 114 N. E. (2d) 633. Thereafter the case was appealed to the Court of Appeals of Cuyahoga County on questions of law, which court affirmed the judgment of the Common Pleas Court without opinion on December 16, 1953 (R. 72-73) for the reasons set forth in the written opinion of the Trial Court. From the judgment of the Court of Appeals of Cuyahoga

County the appellants herein appealed on questions of law to the Supreme Court of the State of Ohio. On July 7, 1954 the Supreme Court of the State of Ohio affirmed the judgment of the Court of Appeals sustaining the validity of said ordinance (R. 74-92).

Without admitting the jurisdiction of the Supreme Court of the United States to review this decision by direct appeal, the appellees have filed under the Revised Rules of this Court, their Motion to Dismiss the Appeal from said court on the grounds that it does not present a substantial Federal question and the judgment rests on an adequate non-Federal basis.

STATEMENT OF THE CASE.

The Agreed Statement of Facts in this case discloses that appellants herein own and operate the Ideal Trailer Camp, which has been in business at the same location in Brooklyn, Ohio, a suburb of Cleveland, since September 1939. The business consists of renting spaces, 25 ft. x 44½ ft., to individuals for the purpose of parking their automobiles and trailers thereon, with the use of the Trailer Camp, and toilet and sanitary facilities installed therein.

Many individual trailers are not equipped with toilet and shower facilities, and the occupants are compelled to use the public showers and toilet facilities provided by appellants' comfort buildings. The children residing in the Camp are required to use the same shower and toilet facilities as adults; and the comfort buildings are in some instances 200 ft. distant from the trailers parked in said Camp.

The average trailer in appellants' Camp is 25 ft. 9 inches in length by 8 ft. in width, outside dimensions, having an inside floor area of less than 200 square feet per family.

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The City of Brooklyn provides appellants' Camp together with the residents thereof, with all facilities provided citizens residing in permanent dwellings, which facilities include fire and police protection, health inspection, school facilities, school bus transportation, *et cetera*.

The zoning ordinance of the City of Brooklyn requires a minimum of 6,000 square feet of lot area for a single family dwelling and also requires a minimum floor area of 700 square feet in addition to a basement or utility room having an area of not less than 120 additional square feet. That on July 8, 1940 the then Village of Brooklyn adopted Ordinance No. 1940-13 which is entitled "An Ordinance Regulating Trailers and Trailer Camps and providing for the licensing of Trailer Camps" which was subsequently amended, and as finally amended is fully set forth in appellants' Jurisdictional Statement as "Appendix C," pages 27a-33a.

That Henry G. Renker, the former owner of appellants' Trailer Camp in the City of Brooklyn, questioned the constitutionality of this entire Trailer Camp Ordinance in the Common Pleas Court of Cuyahoga County in the year 1941 and said court upheld the entire ordinance and found that it did not conflict with any section of the Ohio constitution or the Constitution of the United States, and that the provisions of said ordinance were a valid exercise of the police power. In the year 1941 an appeal was taken by Henry G. Renker to the Court of Appeals of Cuyahoga County, Ohio, and said court unanimously affirmed the rulings of the Trial Court, upholding the constitutionality and validity of said Trailer Camp Ordinance. In the same year Henry G. Renker appealed to the Supreme Court of the State of Ohio, which upheld the constitutionality of said Trailer Camp Ordinance and affirmed the decrees of

the lower courts in a written opinion in the case of *Renker vs. Village of Brooklyn*, 139 O. S. 484.

QUESTIONS PRESENTED.

1. Does Section 7 of the Ordinance of the City of Brooklyn regulating trailers and trailer camps constitute a valid and reasonable exercise of the police powers?

2. Does the appeal present a substantial Federal question?

3. Does the judgment rest on an adequate non-Federal basis?

DISCUSSION.

Throughout the entire argument presented by the appellants (pages 6 to 16 of their Jurisdictional Statement), they endeavor to convey the impression that the average trailer is and should be treated as a modern, permanent home, when, as a matter of fact it is a mobile form of shelter and suitable only for temporary or emergency use. To support their contention appellants have cited State statutes which permit transients the right to vote after 30 days' residence, and also cite a number of laws of various states which contain simple regulations for the operation of a trailer camp.

Appellants' arguments throughout their Jurisdictional Statement refer to the 60-day limitation of Section 7 of the Brooklyn Ordinance, which they maintain has the effect of evicting permanent residents, but they fail to take into consideration the fact that the individual trailer owner is merely renting trailer space in a trailer camp on a month-to-month basis, and is at the mercy of the camp owner and subject to eviction by him at the end of each 30-day period.

To further support appellants' contention and argument they have erroneously or improperly inserted in their Jurisdictional Statement "Appendix D," pages 34a to 41a, excerpts from articles published in the Housing Research, The Wall Street Journal, Financial World, and News Week, under the dates of 1953 and 1954, all of which publications were printed after this case was determined in the lower courts; and these articles constitute new evidence not in the record of the case.

1. Does Section 7 of the Ordinance of the City of Brooklyn regulating trailers and trailer camps constitute a valid and reasonable exercise of the police powers?

Although the entire ordinance of the City of Brooklyn, regulating trailers and trailer camps, was contested by the appellants in the lower courts as an unreasonable and arbitrary exercise of the police powers, they have confined their attack in this Court to Section 7 only, which reads as follows:

> "SECTION 7. It shall be unlawful for any person to park or occupy a trailer in a Trailer Camp for more than sixty days, and no Trailer Camp licensee shall permit a trailer or the occupants thereof to remain in a Trailer Camp for more than sixty days; nor shall a trailer licensee permit a trailer or the occupants thereof to re-enter the Trailer Camp for ninety days after the expiration date of a former occupancy; and it shall be unlawful for the occupants of a trailer to park or occupy a trailer in any Trailer Camp for ninety days after the expiration date of a former occupancy in any other Trailer Camp within the Village limits."

In their Jurisdictional Statement, appellants recognize the necessity for regulations of trailer camps, and that the location of a trailer camp within a municipality presents

various problems in connection with governmental regulations and services.

It is to be noted that municipalities throughout the various states have the power granted by State legislatures and State constitutions to adopt reasonable regulations involving building codes, zoning ordinances, *et cetera*, but have no express authority to regulate the size or construction of a trailer (vehicle). The City of Brooklyn Zoning Ordinance, which has been made a part of the Agreed Statement of Facts, provides for a minimum of 700 square feet of floor area for the smallest single family dwelling together with a utility room of 120 additional square feet, while the average trailer in appellants' Trailer Camp has an inside floor area of less than 200 square feet. The Zoning Ordinance of said municipality also requires for a single family dwelling, a minimum lot area of 6,000 square feet and an average minimum width of 55 feet. The trailer spaces in appellants' camp are 25 ft. x 44½ ft., making a total of approximately 1,113 square feet. The Agreed Statement of Facts further discloses that many of the trailers are not equipped with toilet and shower facilities and that the occupants thereof are required to use the comfort buildings provided by the camp, which in some instances are located 200 ft. distant from the trailer; and that there are as many as six individuals living in an average trailer. To determine whether or not the City has the right to declare that a trailer is not a satisfactory, permanent home, it is necessary to analyze the effect on the city as a whole, as well as on the residents of the trailer camps, if people were permitted to reside there permanently. Some of the reasons might be listed as follows:

(a) Living conditions for children in trailers are not conducive to their best interest.

(b) Children have no opportunity to visit and play in homes with other children.

(c) Children have no privacy.

(d) Children lack the requisites to live their leisure hours in a normal way.

(e) Children are obliged to be outside their homes most of the time and such conditions prevent proper parental supervision.

(f) Social problems created by crowded quarters, particularly when children are required to live with adults at such close proximity.

(g) Children will acquire a precocious knowledge of sex matters.

(h) Potential danger to morals in common use of toilets and bathing facilities by members of the same sex of different ages.

(i) Difficulty on the part of City officials to provide adequate school and playground facilities for children in trailer camps.

(j) Transitory residence, without any plan of permanency, is contrary to public policy and to the interests of the City.

(k) Regardless of compliance with ordinance by an owner of camp of sanitary regulations, there is a strong likelihood that improper sanitary conditions will occur; likewise, disorders, fires, and general overcrowded living conditions.

(l) Impossibility of City to plan for future hospital requirements, playgrounds, community centers; possibility that residents of trailer camps will become charitable wards of the City.

(m) If occupants of trailers are permitted to become permanent residents of the City, definite disadvantages will result to other members of the community, not only in respect to the aforementioned results, but also in respect to the stabilization of the value and use of property in general in the City. The

City will be unable to safeguard its economical structure. It will not be able to attract desirable citizenship to the community outside the trailer camps. It may, in brief, be looked upon by people who might otherwise be induced to move to the City, as a gypsy camp. However, if the City is permitted to restrain and limit the use of trailer camps merely for outings and vacations, these harmful results can be avoided.

(n) If used as a permanent dwelling, numerous problems concerning taxation of a trailer arise.

(o) The various restrictions contained in plumbing, sanitary and building codes, could be circumvented by the simple expedient of placing wheels under the structure and calling it a permanent home. Other people dwelling or desiring to dwell in the City in regular homes must conform to all the requirements of the building, plumbing and sanitary codes. It is, therefore, unfair and not conducive to the best interest of the community to set up rigid standards in respect to permanent dwellings and then permit people to reside as permanent residents of the community in trailers which do not conform to those standards.

However, the climate of the various states must be considered in any discussion of permanent family life in a trailer. In Brooklyn, Ohio, where inclement weather prevails approximately 9 months of each year, the occupants are confined to very cramped quarters since the average trailer is smaller than a single garage and the health of the individuals is definitely endangered. It is to be further noted that each trailer is a potential fire trap, having only one door and an oil heater inserted in close proximity thereto.

The appellees recognize that the trailer has its use, not only for outings and vacations, but also to supply the lack of permanent homes in communities which have doubled

and tripled in population overnight due to the building of defense plants. The trailer also has its use in certain sections of the country to house migratory workers who travel to different parts of the country in seasonable occupations such as fruit crop pickers, who after the season, move on to the canning industry locations. Obviously, these migratory workers are unable to establish permanent homes and a trailer becomes a great convenience to them. In those cases the establishment of large trailer camps outside of municipal limits is a satisfactory means of eliminating temporary housing shortages due to the large groups of migratory workers. However, none of these problems exist in the City of Brooklyn.

It is to be further noted that no effort has been made by any State to regulate the size, construction, safety or sanitary facilities of an individual trailer; and that at the present time throughout the entire country even a pasteboard box, automobile or old truck body, to which wheels are attached or may be attached, would qualify as a trailer to house a family and could be admitted to any trailer camp. Certainly, this Court should realize that since anything can be used for a trailer it cannot be considered a satisfactory, permanent home.

In the *Renker v. Brooklyn* case, *supra*, the Supreme Court of Ohio completely disposed of Question No. 1 in the instant case by the following syllabus:

> "A municipal ordinance which provides for * * * (3) a 60-day maximum period of occupancy with a 90-day minimum period of withdrawal before again occupying any camp within the village is not an unconstitutional exercise of legislative power."

It is interesting to note some of the reasoning contained in the opinion of Chief Justice Weygandt and found at page 487:

> "* * * It is true that the ordinance imposes upon trailer camp owners and guests certain regulations not applicable to other residents of the municipality. However, in return for this disadvantage they receive from the municipality certain concessions not available to other residents. As illustrative of this, the evidence discloses that the average trailer is approximately 7 feet in width and 17 feet in length, thus having a floor area of but 119 square feet, with as many as five people living therein. * * * In contrast with this, the building code of the village requires a minimum area of 700 square feet in houses with one floor, occupied by other residents. * * * A study of the record demonstrates that trailers and trailer camps have their proper place in present-day life when they are used as temporary accommodations for transients as originally intended, but they cannot be expected to meet the more exacting requirements of a permanent home."

This decision was far-reaching in its import and seemed to settle all legal controversy revolving around the question of the right of a municipality to pass legislation regulating trailer camps, their mode of operation and the time limitation upon the period and length of stay of the occupants.

Counsel for appellees believes that upon reading the written opinion in the *Renker v. Brooklyn* case, *supra*, this Court will find that the same constitutional questions were raised about the same ordinance in the years 1941 and 1942 which have been raised in the instant case, and that not only the Trial Court and the Court of Appeals of Cuyahoga County but the Supreme Court of Ohio found said ordinance was a reasonable and valid exercise of the police powers and did not violate any section of the State or Federal Constitutions.

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Similar provisions limiting the occupancy of a trailer or tourist camp have been held constitutional by the Supreme Courts of Indiana and Michigan in two reported cases: The case of *Spitler v. Town of Munster, et al.*, 214 Indiana 75, was decided by the Supreme Court of Indiana, April 28, 1938. This was a suit to enjoin enforcement of a town ordinance regulating tourist camps. The ordinance contained the following provision:

> "No person shall remain a resident of the tourist camp for more than thirty (30) days."

The court sustained the constitutionality of the ordinance. On page 77, the court, in its opinion, stated:

> "Cities and towns have power to establish reasonable regulations for the protection of the lives, health and property of their citizens * * *. This necessarily implies the power to require the citizens to so use their property as not to defeat such regulations and render them ineffective. Reasonable regulations are not unconstitutional merely because they affect the uses to which private property may be put. This is not taking of private property. It is an exercise of the police power."

And on page 78, the court said:

> "The Town's building and plumbing code fixes requirements for places of permanent residence. Tourist camps are ordinarily considered as places of transient or temporary abode, and the requirements of the tourist camp ordinance are no doubt less than the code requirements for permanent homes. The provision that a person shall not live in a tourist camp for more than thirty (30) days is designed to maintain the transient character of such camps, and the penalty is only a means of enforcing the requirements."

In the case of *Cady v. City of Detroit*, 289 Mich. 499; 286 N. W. 805, decided July 6, 1939 by the Supreme Court

of Michigan, the Court upheld the constitutionality of an ordinance regulating trailer camps under the police power. The first syllabus of that case reads as follows:

> "Sovereign police power of the State includes protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public or any substantial part of the public."

The 12th syllabus reads:

> "City ordinances designed to regulate municipal development, secure home life, preserve a favorable environment in which to rear children, protect morals and health, safeguard economic structure upon which public good depends, stabilize the use and value of property and to attract a desirable citizenship, are within proper ambit of police power."

The ordinance of the City of Detroit also contained a limitation on occupancy in a trailer camp to ninety days during any one year. *After a thorough analysis of the question, the Court, in a well-considered opinion, concluded that the prohibiting of parking of occupied trailers in trailer camps for an accumulated period of not more than ninety days in any one year was not unconstitutional; that if the legislative department considered that regulation a reasonable differentiation between a temporary and a permanent dwelling place, then it is not for the Court to substitute its judgment for that of the legislature.*

The view expressed by the Supreme Court of Michigan, in the *Cady* case, is in accordance with the established doctrine of constitutional law, to the effect that on questions of policy, the courts cannot substitute their opinion for that of the legislative bodies. And the reason for that rule is well stated in the case of *Otis vs. Parker,* 187 U. S. 606:

> "Considerable latitude must be allowed for differences of view, as well as for peculiar conditions which this Court can know but imperfectly, if at all."

After the Supreme Court of Michigan decided the *Cady v. City of Detroit* case, the legislature of the State of Michigan in the year 1941 amended its regulations on trailers and trailer camps and Section 18 of said amendment provides:

> "This act shall be construed as an emergency act, for the public peace, health and safety. There is a great shortage of habitable houses for defense workers and the trailer coach has become a necessity, and there is a great shortage and need of sanitary regulated trailer coach parks." Pub. Acts Mich. 1941, Act No. 255, Sec. 18.

Thereafter, the Supreme Court of the State of Michigan decided the case of *Richards v. City of Pontiac*, 305 Mich. 666, 9 N. W. 2d 885 (June 7, 1943) and reached an opposite conclusion. The decision in the latter Michigan case obviously is based upon the specific terms of the Michigan Act, Section 18. The decision recites the purposes and scope of the act and holds that it was intended to apply to house trailers as permanent dwellings. Since the latter Michigan decision is based upon an emergency act and said emergency is set forth, the decision should not be considered an applicable authority in the instant controversy.

Inasmuch as the *Renker v. Village of Brooklyn, supra, Spitler v. Town of Munster, et al., supra,* and *Cady v. City of Detroit, supra,* are the only reported decisions in point with the instant case, the following cited cases, although not in point, tend to show the modern trend in dealing with trailer camps: *Commonwealth v. Amos,* 1941, 44 Pa.

Dist. and Co. R. 125, 30 Del. Co. R. 552; *Allinder v. City of Homewood*, 254 Ala. 525, 49 So. 2d 108, 22 A. L. R. 2d 763.

To further consider the reasonableness of the 60-day limitation feature of Section 7 of the Brooklyn ordinance, the Court's attention is directed to the fact that the average trailer camp creates a potential slum area which the cities throughout the country are in the process of spending large sums of money to eliminate. The causes of City slums which we find prevalent in every trailer camp are as follows:

(a) Insufficient lot area per family;

(b) No open spaces;

(c) Small, overcrowded living quarters;

(d) Lack of sanitary toilet and bathing facilities in many trailers;

(e) Fire hazard; heating with oil stove in small quarters with 1 door for ingress and egress;

(f) Lack of play area within and without the trailer for growing children;

(g) A large number of families using the same toilet and bathing facilities and children sharing the same camp facilities with adults.

In accordance with the established doctrine of constitutional law, on the questions of policy, the courts cannot substitute their opinion for that of legislative bodies.

Chief Justice Hughes of the United States Supreme Court in the case of *Purity Extract Co. v. Lynch*, 226 U. S. 192, states the position of the Courts as follows:

> "The Court has no concern with the wisdom of exercising the police power, and unless the enactment has no substantial relation to a proper purpose, cannot declare that the limit of legislative power has been transcended.

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> "For the Courts to attempt to determine whether the exercise of police power within legislative limits is wise, would be contrary to our constitutional system and substitute judicial opinion for the legislative will."

If the legitimacy of the subject is established as coming under the purview of the police power, the means used is a matter of legislative policy.

In the case of *Silz v. Hesterborg*, 211 U. S. 31, the Court says:

> "State in exercise of the police power is the judge of the necessity or expediency of the means adopted."

In the case of *Hebbia v. New York*, 291 U. S. 502, the Court says:

> "The legislature is primarily the judge of the necessity of such an enactment; every possible presumption is in favor of its validity, and though the Court may think the enactment unwise, it may not be annulled unless palpably in excess of legislative power."

In listing various reasons for the enactment of the limitation provision, we firmly believe that the entire question is one for legislative policy and that the provision is not so clearly unreasonable and oppressive as to justify a court substituting its opinion for that of the legislative body.

One of the foremost authorities in the country on city planning, Mr. Lewis Mumford, had the following to say on the subject of using a trailer as a permanent home:

> "During the last few years the admirable improvements that have been made in the design of trailers have deluded a lot of people into thinking that this means something in terms of the permanent dwelling house. Unfortunately, the trailer proves nothing. It shows what can be done, by a series of neat mechanical

tricks in a space so limited that even natural-born gypsies would rebel at making it their winter quarters, whereas the real problem is to simplify all the expensive mechanical insides and spend money on bringing back a little space into living quarters that are already too shrunken."

Presumption of Constitutionality.

It is a well established canon of construction that every reasonable presumption be indulged in favor of the constitutionality of an ordinance or statute. In order to declare an ordinance unconstitutional, its unconstitutionality must be plainly and palpably clear.

The modern trend followed by the various courts set forth in *American Jurisprudence* is as follows:

> "As in other applications of the police power, the difficulty concerning regulations relating to real property is in attempting to draw the line between constitutional regulation and unconstitutional invasion. *The tendency is to uphold such legislation as valid regulation, for, under the modern view, the police power extends to attracting a desirable citizenship to a particular locality of a municipality and assuring its permanency, to fostering pride in, and attachment to, the city, to promoting happiness and contentment, to stabilizing the use and value of property, and to promoting the public tranquillity, and good order of the city.* Present-day conceptions of the extent of the public interest, particularly in relation to the public welfare, are very broad; thence, many restrictions on the uses to which real property may be put, many limitations on the type of structures which may be erected on premises in certain localities, and many groupings in definite localities of the enterprises which may be carried on on real property are now sustained as valid exercises of the police power which a few years ago in most jurisdictions were regarded as in-

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validly invading the constitutional rights of the property owners." 11 *Am. J.* 1038.

Aside from the facts, however, the law appears well settled that as a corollary to the proposition that courts will not assume the function of the legislative branch, they will further not inquire into the motives of the legislature, nor the influences which they acted on, to nullify an ordinance which has been duly enacted in legal form within the scope of police power.

Barbier v. Connelly, 113 U. S. 27;
Jacobson v. Mass., 197 U. S. 11;
Armour Company v. North Dakota, 240 U. S. 510.

A need for municipal regulations of trailer camps has been admitted by appellants and we believe the 60-day limitation on the occupancy of trailers is a necessary regulation to prevent sub-standard shelter from becoming permanent dwellings in a municipality. That said sub-standard dwellings are a constant menace to the health, safety, morals and general welfare of any municipality on the first day as well as the 60th day of occupation. That the 60-day stay period is a reasonable limitation for vacationers, migratory workers and transients passing through the municipality to find permanent standard dwellings.

2. Does the appeal present a substantial Federal question?

However, if it should appear in the instant case that the validity of Section 7 of the Brooklyn Trailer Camp Ordinance was formerly drawn in question, it is the policy of this Court to decline jurisdiction whenever it appears that the constitutional question presented is not and was not at the time the decision was rendered, substantial in character.

Sugarman v. United States, 249 U. S. 182, 184;

Avent v. United States, 266 U. S. 127, 131;
Campbell v. City of Olney, 262 U. S. 352;
Seaboard Air Line Railway Co. v. Watson, 287 U. S. 86;
Salinger v. United States, 272 U. S. 542;
Wilson v. North Carolina, 169 U. S. 586, 595;
Cady v. Georgia, 323 U. S. 676.

The constitutional question presented by the appellants' Jurisdictional Statement involves Section 1 of the 14th Amendment to the Constitution of the United States (due process clause). To determine whether or not the due process clause has been violated by Section 7 of the City of Brooklyn ordinance, the appellees cite *Miller v. Wilson, Sheriff of Riverside County, California*, 236 U. S. 373. This Court stated in syllabus No. 1:

> "The liberty of contract guaranteed by the due process clause of the 14th Amendment is freedom from arbitrary restraint—not immunity from reasonable regulation to safeguard the public interest."

And at page 380 this Court further stated:

> "The question is whether the restrictions of the statute have reasonable relation to a proper purpose."

Since we believe that the 60-day limitation set forth in Section 7 of the Brooklyn Trailer Camp ordinance is a reasonable regulation to safeguard the health, safety, morals and general welfare of the municipality, the question of arbitrary restraint is not involved in the instant case. That said regulation has a reasonable relation to a proper public purpose in the same manner as a building code, zoning ordinance or health regulation. If the only practical means found to solve the various municipal problems set forth above is to forbid permanent trailer occupancy, it would seem to follow that the 60-day regulation

is not unreasonable or arbitrary and cannot be said to be unrelated to the public health, morals, safety or welfare.

Therefore it would appear that the limitation on trailer camp occupancy is a question of purely local concern involving climate, living standards and sanitary facilities which vary considerably in each state and in various sections of each state, and the determination of the reasonableness of said regulation should be left at the local level.

3. Does the judgment rest on an adequate non-Federal basis?

In all three State Courts a number of non-Federal questions were raised in this action involving such issues as conflict between City and State regulations, power of preemption, taxation and license fees; and all of these various issues were ruled upon by the various State Courts, and particularly by the Supreme Court of the State of Ohio. We believe the syllabus and the opinion of the Supreme Court of the State of Ohio in this matter will support appellees' contention that the judgment rests on an adequate non-Federal basis.

CONCLUSION.

Since the 60-day stay period regulation is definitely related to a public purpose, there is no question of arbitrary restraint and the Federal question herein is not substantial. The judgment of the Supreme Court of the State of Ohio rests on an adequate non-Federal basis, and the appeal of the appellants should be dismissed.

Respectfully submitted,

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